

AMENDED IN ASSEMBLY AUGUST 31, 2000

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN SENATE MAY 1, 2000

AMENDED IN SENATE APRIL 10, 2000

SENATE BILL

No. 2172

Introduced by Senator ~~Chesbro~~ O'Connell

*(Principal coauthors: Assembly Members Corbett and
Knox)*

*(Coauthors: Assembly Members Alquist, Brewer, Jackson,
Scott, and Steinberg)*

February 25, 2000

An act to amend ~~Section 63.1 of, and to add Section 236.5 to,~~
Sections 6361, 6363.3, 6377, 6380, 6471, 6472, 6591.5, and 17053.5
of, to add Section 6018.3 to, and to add and repeal Sections
17052.9 and 23639 of, the Revenue and Taxation Code, relating
to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 2172, as amended, ~~Chesbro~~ O'Connell. ~~Property~~
~~taxation-Taxation.~~

*The Sales and Use Tax Law imposes a tax on the gross
receipts from the sale in this state of, or the storage, use, or
other consumption in this state of, tangible personal property.
That law provides various exemptions and partial exemptions
from that tax, including a partial exemption for vitamins,
minerals, dietary supplements, and orthotic devices used or*

furnished by a licensed chiropractor in the performance of his or her professional services.

This bill would additionally provide a partial exemption with respect to any herb, herbal formula or preparation, vitamin, mineral, dietary supplement, orthotic device, or other naturally occurring substance included in the Encyclopedia of Chinese Materia Medica that is used or furnished by an acupuncturist in the performance of his or her professional services.

The Sales and Use Tax Law includes an exemption from tax for food products, nonalcoholic beverages, and other tangible personal property that are sold on an irregular or intermittent basis by nonprofit youth organizations meeting specified criteria that are made or produced by members of the organization.

This bill would delete the specific reference to food products and nonalcoholic beverages. The bill would also remove the requirement that the property be made or produced by members of the nonprofit youth organization and instead permit the sales tax exemption for property that the organization sells either on its own account or as an agent for others, thus expanding the property subject to exemption from the tax.

The Sales and Use Tax Law exempts from tax, until January 1, 2002, used pieces of clothing, household items, or other retail items sold by thrift stores operated by a nonprofit organization, as defined, if the purpose of that thrift store is to obtain funding for medical and social services provided to individuals with a chronic, life-threatening illness, as defined, by the nonprofit organization.

This bill would extend the operation of this exemption indefinitely.

The Sales and Use Tax Law provides for an exemption from tax for the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of property, and introduced into the process, as specified. A qualified person



does not include any person who has conducted business activities in a new trade or business for 3 or more years.

This bill would except, from that 3-year new trade or business provision, persons engaged in pharmaceutical and medicine manufacturing businesses, as specified. The bill would make related changes.

The Sales and Use Tax Law provides for an exemption from tax for qualified property used in space flight.

This bill would expand the exemption for qualified property used for the purpose of space flight or used in spaceport operations, to include property used for the purpose of assembly, launch, or transport, and tangible property used in spaceport operations. This bill would also exempt materials consumed or installed by a contractor in the construction of a facility designed to launch, manufacture, fabricate, assemble, or process qualified property.

The Sales and Use Tax Law provides that, under specified circumstances, the State Board of Equalization may require any person whose sales and use tax liability exceeds a specified amount to prepay that tax liability. Existing law provides for a prepayment amount and due date for the first, 3rd, and 4th calendar quarters different than for the 2nd calendar quarter.

This bill would revise the prepayment requirements for the 2nd calendar quarter to make those requirements identical to the corresponding requirements for the other calendar quarters.

The Sales and Use Tax Law provides that interest is paid by taxpayers with respect to underpayments of tax at the modified adjusted rate, as defined by reference to a specified federal statute, and that interest is paid to taxpayers with respect to overpayments of tax as determined in accordance with a specified federal statute, which requires that the rate paid on overpayments be based on the rate of 13-week treasury bills, as specified.

This bill would delete the requirement that interest on overpayments be based on the rate of 13-week treasury bills and would instead require that interest on both underpayments and overpayments be determined in accordance with the specified federal statute, as modified.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, for each taxable and income year beginning on or after January 1, 2001, and before January 1, 2006, allow a credit in an amount equal to 50% of the qualified costs paid or incurred to lease or purchase a new zero-emission vehicle, whose original lease or purchase begins on or after January 1, 2001, and before January 1, 2003, as provided. This bill would require the credit amount to be claimed over a period of no more than 3 consecutive taxable or income years, and would limit the credit amount that may be claimed for any one taxable or income year to the lesser of 2 alternative amounts.

The Personal and Income Tax Law authorizes a credit against the taxes imposed by that law for qualified renters in an amount equal to \$120 for married couples filing joint returns, heads of household, and heads of household if adjusted gross income is \$50,000 or less, and in an amount equal to \$60 for other individuals if adjusted gross income is \$25,000 or less. The adjusted gross income amounts are adjusted annually for inflation.

This bill would increase the adjusted gross income amounts to \$60,000 and \$30,000, respectively, prior to the adjustment for inflation, as provided. This bill would make a related change.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but the operation of certain provisions of the bill would depend upon the effective date of the bill.



~~The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975-76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution also excludes from the terms “purchased” and “change in ownership” the purchase or transfer of the principal residence of the transferor, or the purchase or transfer of the first \$1,000,000 of all other real property, in the case of a purchase or transfer between parents and their children, as defined by the Legislature. Existing statutory law implements this exclusion authorization pursuant to specified definitions and application requirements.~~

~~This bill would prohibit the exclusion from being denied, by reason of a step-transaction or substance over form doctrine, with respect to either of certain sequences of consecutive transfers of real property that involve, in addition to a transfer of property between eligible individuals, a transfer of real property, between an individual or individuals and a legal entity, that is excluded by a specified statutory provision from classification as a change in ownership. This bill would also preclude a transfer of ownership interests in a legal entity, that is part of a sequence of property transfers excluded by this bill, from being considered for purposes of determining a change in ownership of real property owned by that entity.~~

~~Existing property tax law establishes, pursuant to the authorization of the California Constitution, a welfare exemption under which property is exempt from taxation if, among other things, that property is used exclusively for religious, hospital, scientific, or charitable purposes and is owned and operated by an entity, as provided, that is itself organized and operated for those purposes.~~

~~This bill would apply the welfare exemption to any otherwise taxable interest in real property that is leased for a term of 35 years or more by a charitable foundation, exempt from federal taxation, if, among other things, the real property is used exclusively by the lessee for operation as a public park~~

~~and the lessee foundation is, under the terms of the lease, to obtain fee ownership of the property at the end of the lease term.~~

~~Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.~~

~~This bill would take effect immediately as a tax levy.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 63.1 of the Revenue and~~
 2 *SECTION 1. Section 6018.3 is added to the Revenue*
 3 *and Taxation Code, to read:*
 4 *6018.3. A licensed acupuncturist is a consumer of, and*
 5 *shall not be considered a retailer with respect to, any*
 6 *herb, herbal formula or preparation, vitamin, mineral,*
 7 *dietary supplement, orthotic device, or other naturally*
 8 *occurring substance included in the Encyclopedia of*
 9 *Chinese Materia Medica that is used or furnished by him*
 10 *or her in the performance of his or her professional*
 11 *services.*
 12 *SEC. 2. Section 6361 of the Revenue and Taxation*
 13 *Code is amended to read:*
 14 *6361. (a) Any organization listed or described in*
 15 *subdivision (b) is a consumer of, and shall not be*
 16 *considered a retailer within the provisions of this part, of*
 17 ~~*food products, nonalcoholic beverages, or other with*~~
 18 ~~*respect to, tangible personal property made or produced*~~
 19 ~~*by members of the organization that it sells either on its*~~
 20 ~~*own account or as an agent for others*~~ *provided, however,*
 21 ~~*that the organization's sales are made on an irregular or*~~
 22 ~~*intermittent basis, and that the organization's profits*~~

1 from those sales are used exclusively in furtherance of the
2 purposes of the organization.

3 (b) For purposes of this section, “organization”
4 includes any of the following:

5 (1) Any nonprofit organization which meets all of the
6 following conditions:

7 (A) The organization qualifies for tax-exempt status
8 under Section 501(c) of the Internal Revenue Code.

9 (B) The organization’s primary purpose is to provide
10 a supervised program of competitive sports for youth, or
11 to promote good citizenship in youth.

12 (C) The organization does not discriminate on the
13 basis of race, sex, nationality, or religion.

14 (2) (A) Any youth group sponsored by or affiliated
15 with a qualified educational institution, including, but not
16 limited to, any student activity club, athletic group, or
17 musical group.

18 (B) For purposes of this section, “qualified educational
19 institution” means any of the following:

20 (i) Any public elementary, secondary, or
21 vocational-technical school providing education for
22 kindergarten, grades 1 to 12, inclusive, and college
23 undergraduate programs, or any part thereof, operated
24 by state or local government.

25 (ii) Any nonprofit private educational institution
26 providing education for kindergarten, grades 1 to 12,
27 inclusive, and college undergraduate programs, or any
28 part thereof, that meets the requirements of the State
29 Department of Education for a school. “Private
30 educational institution” means any entity providing
31 education which satisfies the requirements of state and
32 local laws pertaining to private educational institutions in
33 effect on January 1, 1990, and which does not discriminate
34 on the basis of race, sex, nationality, or religion.

35 (3) Little League, Bobby Sox, Boy Scouts, Cub Scouts,
36 Girl Scouts, Campfire, Inc., Young Men’s Christian
37 Association, Young Women’s Christian Association,
38 Future Farmers of America, Future Homemakers of
39 America, 4-H Clubs, Distributive Education Clubs of
40 America, Future Business Leaders of America,

1 Vocational Industrial Clubs of America, Collegiate Young
2 Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc.,
3 American Youth Soccer Organization, California Youth
4 Soccer Association, North, California Youth Soccer
5 Association, South, and Pop Warner football.

6 (c) For purposes of this section, "irregular or
7 intermittent" means associated directly with a particular
8 event, such as fairs, galas, parades, scout-a-ramas, games,
9 and similar activities. That term includes refreshment
10 stands or booths that are utilized at scheduled events of
11 organized leagues, but does not include storefront or
12 mobile retail outlets which ordinarily require local
13 business licenses.

14 *SEC. 3. Section 6363.3 of the Revenue and Taxation*
15 *Code is amended to read:*

16 6363.3. ~~(a)~~ There are exempted from the taxes
17 imposed by this part, the gross receipts from the sale in
18 this state of, and the storage, use, or other consumption
19 in this state of, used pieces of clothing, household items,
20 or other retail items sold by thrift stores operated by a
21 nonprofit organization if the purpose of that thrift store
22 is to obtain revenue for the funding of medical and social
23 services to chronically ill individuals, and at least 75
24 percent of those net revenues are actually expended for
25 the purpose of providing medical and social services to
26 the chronically ill. For purposes of this section, "nonprofit
27 organization" means an organization that provides
28 medical and social services to individuals with a chronic,
29 life-threatening illness, as defined in subdivision (c) of
30 Section 1568.01 of the Health and Safety Code, and is
31 exempt from taxation under Section 23701d.

32 ~~(b) This section shall cease to be operative on January~~
33 ~~1, 2002, and as of that date is repealed.~~

34 *SEC. 4. Section 6377 of the Revenue and Taxation*
35 *Code is amended to read:*

36 6377. (a) There are exempted from the taxes
37 imposed by this part the gross receipts from the sale of,
38 and the storage, use, or other consumption in this state of,
39 any of the following:

1 (1) Tangible personal property purchased for use by a
2 qualified person to be used primarily in any stage of the
3 manufacturing, processing, refining, fabricating, or
4 recycling of property, beginning at the point any raw
5 materials are received by the qualified person and
6 introduced into the process and ending at the point at
7 which the manufacturing, processing, refining,
8 fabricating, or recycling has altered property to its
9 completed form, including packaging, if required.

10 (2) Tangible personal property purchased for use by a
11 qualified person to be used primarily in research and
12 development.

13 (3) Tangible personal property purchased for use by a
14 qualified person to be used primarily to maintain, repair,
15 measure, or test any property described in paragraph (1)
16 or (2).

17 (4) Tangible personal property purchased for use by a
18 contractor purchasing that property either as an agent of
19 a qualified person or for the contractor's own account and
20 subsequent resale to a qualified person for use in the
21 performance of a construction contract for the qualified
22 person who will use the tangible personal property as an
23 integral part of the manufacturing, processing, refining,
24 fabricating, or recycling process, or as a research or
25 storage facility for use in connection with the
26 manufacturing process.

27 This exemption shall not apply to any tangible personal
28 property that is used primarily in administration, general
29 management, or marketing.

30 (b) For purposes of this section:

31 (1) "Fabricating" means to make, build, create,
32 produce, or assemble components or property to work in
33 a new or different manner.

34 (2) "Manufacturing" means the activity of converting
35 or conditioning property by changing the form,
36 composition, quality, or character of the property for
37 ultimate sale at retail or use in the manufacturing of a
38 product to be ultimately sold at retail. Manufacturing
39 includes any improvements to tangible personal property

1 that result in a greater service life or greater functionality
2 than that of the original property.

3 (3) “Primarily” means tangible personal property
4 used 50 percent or more of the time in an activity
5 described in subdivision (a).

6 (4) “Process” means the period beginning at the point
7 at which any raw materials are received by the qualified
8 taxpayer and introduced into the manufacturing,
9 processing, refining, fabricating, or recycling activity of
10 the qualified taxpayer and ending at the point at which
11 the manufacturing, processing, refining, fabricating, or
12 recycling activity of the qualified taxpayer has altered
13 tangible personal property to its completed form,
14 including packaging, if required. Raw materials shall be
15 considered to have been introduced into the process
16 when the raw materials are stored on the same premises
17 where the qualified taxpayer’s manufacturing,
18 processing, refining, or recycling activity is conducted.
19 Raw materials that are stored on premises other than
20 where the qualified taxpayer’s manufacturing,
21 processing, refining, fabricating, or recycling activity is
22 conducted, shall not be considered to have been
23 introduced into the manufacturing, processing, refining,
24 fabricating, or recycling process.

25 (5) “Processing” means the physical application of the
26 materials and labor necessary to modify or change the
27 characteristics of property.

28 (6) “Qualified person” means any person that is both
29 of the following:

30 (A) A new trade or business. In determining whether
31 a trade or business activity qualifies as a new trade or
32 business, the following rules shall apply:

33 (i) In any case where a person purchases or otherwise
34 acquires all or any portion of the assets of an existing trade
35 or business (irrespective of the form of entity) that is
36 doing business in this state (within the meaning of Section
37 23101), the trade or business thereafter conducted by that
38 person (or any related person) shall not be treated as a
39 new business if the aggregate fair market value of the
40 acquired assets (including, real, personal, tangible, and



1 intangible property) used by that person (or any related
2 person) in the conduct of his or her trade or business
3 exceed 20 percent of the aggregate fair market value of
4 the total assets of the trade or business being conducted
5 by the person (or any related person). For purposes of
6 this subparagraph only, the following rules shall apply:

7 (I) The determination of the relative fair market
8 values of the acquired assets and the total assets shall be
9 made as of the last day of the month following the
10 quarterly period in which the person (or any related
11 person) first uses any of the acquired trade or business
12 assets in his or her business activity.

13 (II) Any acquired assets that constituted property
14 described in Section 1221(1) of the Internal Revenue
15 Code in the hands of the transferor shall not be treated as
16 assets acquired from an existing trade or business, unless
17 those assets also constitute property described in Section
18 1221(1) of the Internal Revenue Code in the hands of the
19 acquiring person (or related person).

20 (ii) In any case where a person (or any related person)
21 is engaged in one or more trade or business activities in
22 this state, or has been engaged in one or more trade or
23 business activities in this state within the preceding 36
24 months (“prior trade or business activity”), and
25 thereafter commences an additional trade or business
26 activity in this state, the additional trade or business
27 activity shall only be treated as a new business if the
28 additional trade or business activity is classified under a
29 different division of the Standard Industrial Classification
30 Manual published by the United States Office of
31 Management and Budget, 1987 edition, than are any of
32 the person’s (or any related person’s) current or prior
33 trade or business activities in this state.

34 (iii) In any case where a person, including all related
35 persons, is engaged in trade or business activities wholly
36 outside of this state and that person first commences
37 doing business in this state (within the meaning of Section
38 23101) after December 31, 1993 (other than by purchase
39 or other acquisition described in clause (i)), the trade or
40 business activity shall be treated as a new business.



1 (iv) In any case where the legal form under which a
2 trade or business activity is being conducted is changed,
3 the change in form shall be disregarded and the
4 determination of whether the trade or business activity
5 is a new business shall be made by treating the person as
6 having purchased or otherwise acquired all or any portion
7 of the assets of an existing trade or business under the
8 rules of clause (i).

9 (v) “Related person” means any person that is related
10 to that person under either Section 267 or 318 of the
11 Internal Revenue Code.

12 (vi) “Acquire” includes any gift, inheritance, transfer
13 incident to divorce, or any other transfer, whether or not
14 for consideration.

15 (B) Engaged in those lines of business described in
16 Codes 2011 to 3999, inclusive, *and Code 8731* of the
17 Standard Industrial Classification Manual published by
18 the United States Office of Management and Budget,
19 1987 edition.

20 (7) Notwithstanding paragraph (6), “qualified
21 person” shall not include any person who has conducted
22 business activities in a new trade or business for three or
23 more years, *except for persons engaged in*
24 *pharmaceutical and medicine manufacturing businesses*
25 *that are described in Industry Group Code 3254 or*
26 *Industry Code 54171 of the North American Industry*
27 *Classification System Manual, published by the United*
28 *States Office of Management and Budget, 1997 edition.*
29 *Persons engaged in these activities shall remain a*
30 *“qualified person” until regulatory approval is received*
31 *for any product from the United States Food and Drug*
32 *Administration, unless the qualified person conducts any*
33 *of the activities described in clauses (i) through (vi) of*
34 *subparagraph (A) of paragraph (6) of subdivision (b)*
35 *prior to receiving regulatory approval. If any of those*
36 *activities are conducted, that person shall no longer be*
37 *regarded as a “qualified person” and the provisions in this*
38 *section shall not apply. If, however, the qualified person*
39 *purchases or otherwise acquires all or any portion of the*
40 *assets of a separate qualified person that has not received*

1 *regulatory approval, or if a separate qualified person that*
 2 *has not received regulatory approval acquires all or any*
 3 *portion of the assets of the qualified person, then the*
 4 *exemption provided by this section shall continue to*
 5 *apply until such time as regulatory approval for any*
 6 *product is received. For purposes of this paragraph,*
 7 *pharmaceutical and medicine manufacturing comprises*
 8 *establishments primarily engaged in one or more of the*
 9 *following:*

- 10 (A) *Manufacturing biological and medicinal products.*
- 11 (B) *Processing (that is, grading, grinding, or milling)*
 12 *botanical drugs and herbs.*
- 13 (C) *Isolating active medicinal principals from*
 14 *botanical drugs and herbs.*
- 15 (D) *Biopharmaceutical or biotechnology activities.*
- 16 (E) *Manufacturing pharmaceutical products*
 17 *intended for internal and external consumption in such*
 18 *forms as ampoules, tablets, capsules, vials, ointments,*
 19 *powders, solutions, and suspensions.*
- 20 (F) *Pharmaceutical and medicine research and*
 21 *development activities.*
- 22 (8) “Refining” means the process of converting a
 23 natural resource to an intermediate or finished product.
- 24 (9) “Research and development” means those
 25 activities that are described in Section 174 of the Internal
 26 Revenue Code or in any regulations thereunder.
- 27 (10) “Tangible personal property” does not include
 28 any of the following:
- 29 (A) Consumables with a normal useful life of less than
 30 one year, except as provided in subparagraph (E) of
 31 paragraph (10).
- 32 (B) Furniture, inventory, equipment used in the
 33 extraction process, or equipment used to store finished
 34 products that have completed the manufacturing
 35 process.
- 36 (C) Any property for which a credit is claimed under
 37 either Section 17053.49 or 23649.
- 38 (11) “Tangible personal property” includes, but is not
 39 limited to, all of the following:

1 (A) Machinery and equipment, including component
2 parts and contrivances such as belts, shafts, moving parts,
3 and operating structures.

4 (B) All equipment or devices used or required to
5 operate, control, regulate, or maintain the machinery,
6 including, without limitation, computers, data processing
7 equipment, and computer software, together with all
8 repair and replacement parts with a useful life of one or
9 more years therefor, whether purchased separately or in
10 conjunction with a complete machine and regardless of
11 whether the machine or component parts are assembled
12 by the taxpayer or another party.

13 (C) Property used in pollution control that meets or
14 exceed standards established by this state or any local or
15 regional governmental agency within this state.

16 (D) Special purpose buildings and foundations used as
17 an integral part of the manufacturing, processing,
18 refining, or fabricating process, or that constitute a
19 research or storage facility used during the
20 manufacturing process. Buildings used solely for
21 warehousing purposes after completion of the
22 manufacturing process are not included.

23 (E) Fuels used or consumed in the manufacturing
24 process.

25 (F) Property used in recycling.

26 (c) No exemption shall be allowed under this section
27 unless the purchaser furnishes the retailer with an
28 exemption certificate, completed in accordance with any
29 instructions or regulations as the board may prescribe,
30 and the retailer subsequently furnishes the board with a
31 copy of the exemption certificate. The exemption
32 certificate shall contain the sales price of the machinery
33 or equipment that is exempt pursuant to subdivision (a).

34 (d) Notwithstanding any provision of the
35 Bradley-Burns Uniform Local Sales and Use Tax Law
36 (Part 1.5 (commencing with Section 7200)) or the
37 Transactions and Use Tax Law (Part 1.6 (commencing
38 with Section 7251)), the exemption established by this
39 section shall not apply with respect to any tax levied by

1 a county, city, or district pursuant to, or in accordance
2 with, either of those laws.

3 (e) (1) Notwithstanding subdivision (a), the
4 exemption provided by this section shall not apply to any
5 sale or use of property which, within one year from the
6 date of purchase, is either removed from California or
7 converted from an exempt use under subdivision (a) to
8 some other use not qualifying for the exemption.

9 (2) Notwithstanding subdivision (a), on or after
10 January 1, 1995, the exemption established by this section
11 shall not apply with respect to any tax levied pursuant to
12 Sections 6051.2 and 6201.2, or pursuant to Section 35 of
13 Article XIII of the California Constitution.

14 (f) If a purchaser certifies in writing to the seller that
15 the property purchased without payment of the tax will
16 be used in a manner entitling the seller to regard the gross
17 receipts from the sale as exempt from the sales tax, and
18 within one year from the date of purchase, the purchaser
19 (1) removes that property outside California, (2)
20 converts that property for use in a manner not qualifying
21 for the exemption, or (3) uses that property in a manner
22 not qualifying for the exemption, the purchaser shall be
23 liable for payment of sales tax, with applicable interest, as
24 if the purchaser were a retailer making a retail sale of the
25 property at the time the property is so removed,
26 converted, or used, and the sales price of the property to
27 the purchaser shall be deemed the gross receipts from
28 that retail sale.

29 (g) (1) This section shall remain in effect until the
30 date specified in paragraph (2), on which date this section
31 shall cease to be operative, and as of that date is repealed.

32 (2) (A) This section shall cease to be operative on
33 January 1, 2001, or on January 1 of the earliest year
34 thereafter, if the total employment in this state, as
35 determined by the Employment Development
36 Department on the preceding January 1, does not exceed
37 by 100,000 jobs the total employment in this state on
38 January 1, 1994. The department shall report annually to
39 the Legislature with respect to the determination
40 required by the preceding sentence.

1 (B) For purposes of this paragraph, “total
2 employment” means the total employment in the
3 manufacturing sector, excluding employment in the
4 aerospace sector.

5 (h) This section applies to leases of tangible personal
6 property classified as “continuing sales” and “continuing
7 purchases” in accordance with Sections 6006.1 and 6010.1.
8 The exemption established by this section shall apply to
9 the rentals payable pursuant to such a lease, provided the
10 lessee is a qualified person and the property is used in an
11 activity described in subdivision (a). Rentals which meet
12 the foregoing requirements are eligible for the
13 exemption for a period of six years from the date of
14 commencement of the lease. At the close of the six-year
15 period from the date of commencement of the lease, lease
16 receipts are subject to tax without exemption.

17 *SEC. 5. Section 6380 of the Revenue and Taxation*
18 *Code is amended to read:*

19 6380. (a) There are exempted from the taxes
20 imposed by this part the gross receipts from the sale of,
21 and the storage, use, or other consumption in this state of,
22 qualified property ~~for use in~~ *used for the purpose of space*
23 *flight or used in spaceport operations.*

24 (b) For purposes of this section:

25 (1) “Qualified property” means any of the following:

26 (A) Tangible personal property that has space flight
27 capability, including, but not limited to, an orbital space
28 facility, space propulsion system, space vehicle, satellite,
29 or space station of any kind, and any component thereof.

30 (B) Tangible personal property to be placed or used
31 aboard any facility, system, vehicle, satellite, or station
32 described in subparagraph (A), regardless of whether
33 that property is to be ultimately returned to this state for
34 subsequent use, storage, or other consumption.

35 (C) *Tangible personal property to be used for the*
36 *purpose of assembly, launch, or transport of property*
37 *described in subparagraph (A), whether transported to*
38 *launch sites within or outside this state.*

1 (D) *Tangible personal property used in spaceport*
2 *operations as described in subparagraph (B) of*
3 *paragraph (2).*

4 (E) Fuel of a quality that is not adaptable for use in
5 ordinary motor vehicles, but is produced, sold, and used
6 exclusively for space flight.

7 (2) *For purposes of this section:*

8 (A) “Space flight” means any flight designed for
9 suborbital, orbital, or interplanetary travel by a space
10 vehicle, satellite, space facility, or space station of any
11 kind.

12 (B) “Spaceport operations” means an installation and
13 related facilities, and equipment used for the launching,
14 landing, recovering, and monitoring of vehicles capable
15 of entering and returning from space flight.

16 (c) The exemption established by this section shall not
17 be denied by reason of a failure, postponement, or
18 cancellation of a launch of a space vehicle, satellite, space
19 facility, or space station of any kind, or the destruction of
20 any launch vehicle or any component thereof, ~~but the~~
21 ~~exemption shall not apply to any material that is not~~
22 ~~intended to be launched into space.~~

23 (d) *There are also exempted from the taxes imposed*
24 *by this part the gross receipts from the sale of, and the*
25 *storage, use, or other consumption in this state of,*
26 *materials consumed or installed by a contractor in the*
27 *construction of a facility designed to launch,*
28 *manufacture, fabricate, assemble, or process qualified*
29 *property.*

30 SEC. 6. *Section 6471 of the Revenue and Taxation*
31 *Code is amended to read:*

32 6471. (a) Upon written notification by the board, any
33 person whose estimated measure of tax liability under this
34 part averages seventeen thousand dollars (\$17,000) or
35 more per month, as determined by the board, shall,
36 without regard to the measure of tax in any one month,
37 ~~make prepayments as prescribed in this section.~~

38 ~~(1) In the first, third, and fourth calendar quarters, the~~
39 ~~person shall~~ prepay not less than 90 percent of the amount

1 of state and local tax liability for each of the first two
2 monthly periods of each quarterly period.

3 ~~(2) In the second calendar quarter, the person shall~~
4 ~~prepay a first prepayment of 90 percent of the amount of~~
5 ~~state and local tax liability for the first monthly period of~~
6 ~~each quarterly period and a second prepayment of either~~
7 ~~of the following:~~

8 ~~(A) Ninety percent of the amount of state and local tax~~
9 ~~liability for the second monthly period of the quarterly~~
10 ~~period, plus 90 percent of the amount of state and local tax~~
11 ~~liability for the first 15 days of the third monthly period~~
12 ~~of the quarterly period.~~

13 ~~(B) Ninety percent of the amount of state and local tax~~
14 ~~liability for the second monthly period of the quarterly~~
15 ~~period, plus 50 percent of 90 percent of the amount of the~~
16 ~~tax liability for the second monthly period of the~~
17 ~~quarterly period.~~

18 (b) Persons engaged in their present business during
19 all of the corresponding quarterly period of the preceding
20 year, or persons who are successors to a business that was
21 in operation during all of that quarterly period, may
22 satisfy the above monthly prepayment ~~requirements for~~
23 ~~the first, third, and fourth calendar quarters requirement~~
24 by payment of an amount equal to one-third of the
25 measure of tax liability reported on the return or returns
26 filed for that quarterly period of the preceding year
27 multiplied by the state and local tax rate in effect during
28 the month for which the prepayment is made.

29 ~~The persons may satisfy their prepayment~~
30 ~~requirements for the second calendar quarter by making~~
31 ~~a first prepayment of an amount equal to one third of the~~
32 ~~measure of tax liability reported, and a second~~
33 ~~prepayment of an amount equal to one half of the~~
34 ~~measure of tax liability reported, on the return or returns~~
35 ~~filed for that quarterly period of the preceding year~~
36 ~~multiplied by the state and local tax rate in effect during~~
37 ~~the month for which the prepayment is made.~~

38 Prepayments shall be made during the quarterly
39 periods designated by the board and during each

succeeding quarterly period until further notified in writing by the board.

SEC. 7. Section 6472 of the Revenue and Taxation Code is amended to read:

6472. Except in the case of persons required to remit amounts due in accordance with Article 1.2 (commencing with Section 6479.3), for purposes of Section 6471, a prepayment shall be accompanied by a report of the amount of the prepayment in a form prescribed by the board and shall be made to the board as follows:

(a) ~~In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.~~

~~(b) In the second calendar quarter, as follows:~~

~~(1) The first prepayment on or before the 24th day next following the end of the first monthly period of each quarterly period.~~

~~(2) The second prepayment on or before the 24th day of the third monthly period of each quarterly period for the second monthly period and the first 15 days of the third monthly period of each quarterly period.~~

SEC. 8. Section 6591.5 of the Revenue and Taxation Code is amended to read:

6591.5. (a) ~~(1) For interest required to be paid to the state upon underpayments of tax to the state, “modified~~ *Modified* ~~adjusted rate per annum” means the adjusted annual rate established pursuant to subdivision (c), plus three percentage points.~~

~~(2) For interest required to be paid by the state upon overpayments of tax, “modified adjusted rate per annum” means the adjusted annual rate established pursuant to subdivision (d).~~

(b) “Modified adjusted rate per month, or fraction thereof” means the modified adjusted rate per annum divided by 12.

(c) The rate established ~~for interest to be paid upon underpayments of tax~~ shall be determined in accordance with the provisions of Section 6621 of the Internal

1 Revenue Code ~~which establish the underpayment rate,~~
2 ~~except that the:~~

3 *(1) The overpayment rate specified in Section*
4 *6621(a)(1) of the Internal Revenue Code shall be*
5 *modified to be equal to the underpayment rate*
6 *determined under Section 6621(a)(2) of the Internal*
7 *Revenue Code.*

8 *(2) The determination specified in Section 6621(b) of*
9 *the Internal Revenue Code shall be modified to be*
10 *determined semiannually as follows:*

11 ~~(1)–~~
12 (A) The rate for January shall apply for the following
13 July 1 to December 31, inclusive.

14 ~~(2)–~~
15 (B) The rate for July shall apply for the following
16 January 1 to June 30, inclusive.

17 ~~(d) (1) Except as provided in paragraph (2), the rate~~
18 ~~established for interest to be paid by the state upon~~
19 ~~overpayments of tax shall be equal to the bond equivalent~~
20 ~~rate of 13-week treasury bills auctioned, rounded to the~~
21 ~~nearest full percent (or if a multiple of one-half of 1~~
22 ~~percent, the rate shall be increased to the next highest full~~
23 ~~percent), as follows:~~

24 ~~(A) The bond equivalent rate of 13-week treasury bills~~
25 ~~established at the first auction held during the month of~~
26 ~~January shall apply for the following July 1 to December~~
27 ~~31, inclusive.~~

28 ~~(B) The bond equivalent rate of 13-week treasury bills~~
29 ~~established at the first auction held during the month of~~
30 ~~July shall apply for the following January 1 to June 30,~~
31 ~~inclusive.~~

32 ~~(2) For the period July 1, 1991, through June 30, 1992,~~
33 ~~the rate to be paid by the state upon overpayments of tax~~
34 ~~shall be equal to the bond equivalent rate of 13-week~~
35 ~~treasury bills established at the auction held on July 1,~~
36 ~~1991, rounded to the nearest full percent (or if a multiple~~
37 ~~of one-half of 1 percent, the rate shall be increased to the~~
38 ~~next highest full percent).~~

39 ~~(e) For purposes of this part, and any other provision~~
40 ~~of law referencing this method of computation, in~~

1 computing the amount of any interest required to be paid
2 by the state or by the taxpayer, or any other amount
3 determined by reference to that amount of interest, that
4 interest and that amount shall be computed as simple
5 interest, not compound interest.

6 *SEC. 9. Section 17052.9 is added to the Revenue and*
7 *Taxation Code, to read:*

8 *17052.9. (a) (1) For taxable years beginning on or*
9 *after January 1, 2001, and before January 1, 2006, there*
10 *shall be allowed a credit against the "net tax," as defined*
11 *in Section 17039, as follows:*

12 *(A) Any taxpayer who leases or who purchases a new*
13 *zero-emission vehicle shall be allowed a total credit*
14 *amount that, subject to the limits set forth in paragraph*
15 *(2), is equal to 50 percent of the qualified cost of the new*
16 *zero-emission vehicle.*

17 *(B) Any taxpayer that sells or leases a new*
18 *zero-emission vehicle to a state or local governmental*
19 *agency, or to a tax-exempt nonprofit organization that is*
20 *not entitled to claim the credit allowed under*
21 *subparagraph (A), shall be allowed a total credit amount*
22 *that, subject to the limits set forth in paragraph (2), is*
23 *equal to 50 percent of the qualified cost of the new*
24 *zero-emission vehicle, if that taxpayer agrees to reduce*
25 *the sales price of the new zero-emission vehicle, or the*
26 *amounts due under the lease of the new zero-emission*
27 *vehicle, by an amount equal to the total credit amount*
28 *allowed by this subparagraph and provides written*
29 *documentation of this reduction to the purchaser or the*
30 *lessee, as the case may be.*

31 *(2) (A) A credit amount allowed under paragraph*
32 *(1) shall, except for any carryover amount allowed under*
33 *paragraph (1) of subdivision (d), be claimed over a*
34 *period of no more than three consecutive taxable years*
35 *beginning with the taxable year during which original use*
36 *of the new zero-emission vehicle commences.*

37 *(B) The credit amount that may be claimed under*
38 *paragraph (1) for any single taxable year may not, except*
39 *for any carryover amount otherwise allowed pursuant to*
40 *paragraph (1) of subdivision (d), exceed the lesser of:*

1 (i) Three thousand dollars (\$3,000) per new
2 zero-emission vehicle per taxable year.

3 (ii) Fifty percent of the qualified cost per new
4 zero-emission vehicle, as reduced by any credits claimed
5 in prior taxable years under this section with respect to
6 that new zero-emission vehicle.

7 (b) For purposes of this section:

8 (1) “Qualified cost” means an amount, not to exceed
9 eighteen thousand dollars (\$18,000), that is determined
10 by the applicable of the following:

11 (A) In the case of the purchase of a new zero-emission
12 vehicle, other than a purchase described in subparagraph
13 (C), the amount that is subject to sales or use tax under
14 Part 1 (commencing with Section 6001).

15 (B) In the case of a lease of a new zero-emission
16 vehicle, other than a lease described in subparagraph
17 (C), the amount the lessee is unconditionally obligated to
18 pay to the lessor under the terms of the lease during the
19 36-month period beginning with the date the lease of that
20 new zero-emission vehicle commences.

21 (C) In the case of a sale or lease of a new zero-emission
22 vehicle to a state or local governmental agency or to a
23 tax-exempt nonprofit organization, the following rules
24 apply:

25 (i) In the case of a sale, “qualified cost” means the sum
26 of the sales price of the new-emission vehicle and the
27 amount of the reduction required by subparagraph (B)
28 of paragraph (1) of subdivision (a).

29 (ii) In the case of a lease, “qualified cost” means the
30 sum of the amount the lessor is unconditionally entitled
31 to receive under the terms of the lease during the
32 36-month period beginning with the date the lease of that
33 new zero-emission vehicle commences, and the amount
34 of the reduction required by subparagraph (B) of
35 paragraph (1) of subdivision (a).

36 (2) “Zero-emission vehicle” means any light-duty
37 vehicle certified by the State Air Resources Board as
38 having zero tailpipe and evaporative emissions. Eligible
39 zero-emission vehicles shall be registered in the State of
40 California, meet all federal and state safety requirements,

1 have minimum warranties covering the full lease period,
2 and shall be freeway capable, as determined by the State
3 Air Resources Board in conjunction with the California
4 Energy Commission and the Department of Motor
5 Vehicles.

6 (3) "New zero-emission vehicle" means any
7 zero-emission vehicle, the original use of which
8 commences with the taxpayer on or after January 1, 2001,
9 and before January 1, 2003. For purposes of this
10 paragraph:

11 (A) A zero-emission vehicle shall be treated as
12 originally placed in service not earlier than the date on
13 which that zero-emission vehicle is used under the lease
14 if both of the following apply:

15 (i) The vehicle is originally placed in service by the
16 taxpayer.

17 (ii) The vehicle is sold and leased back by that
18 taxpayer, or is leased to that taxpayer, within three
19 months, but in no event later than December 31, 2002, of
20 the date the zero-emission vehicle was originally placed
21 in service.

22 (B) In the case of any previously leased vehicle that
23 has been substantially upgraded on or after January 1,
24 2001, with new technologies, including, but not limited to,
25 an upgrade to advanced batteries, or substantial upgrades
26 to power electronics, as determined by the State Air
27 Resources Board in conjunction with the California
28 Energy Commission, the original use of that
29 zero-emission vehicle shall be deemed to have
30 commenced with the first original use of that
31 zero-emission vehicle that occurs after the substantial
32 upgrade has been completed.

33 (C) In the case of a sale or lease described in
34 subparagraph (B) of paragraph (1) of subdivision (a), the
35 original use of the zero-emission vehicle by the purchaser
36 or lessee, rather than the taxpayer, shall determine the
37 date on which the seller or lessor shall be first entitled to
38 claim the credit allowed under subparagraph (B) of
39 paragraph (1) of subdivision (a).

1 (c) The State Air Resources Board, in consultation
2 with the Department of Motor Vehicles and the
3 California Energy Commission, shall specify criteria and
4 other requirements for eligibility for the credit provided
5 by this section, and shall administer the determination of
6 vehicle eligibility for the Franchise Tax Board.

7 (d) (1) If the amount of credit exceeds the “net tax,”
8 the excess may be carried forward to reduce the “net tax”
9 in the following year, and seven succeeding years, if
10 necessary, until exhausted.

11 (2) Any amount allowed under subdivision (a) that
12 may not be claimed during any taxable year due to the
13 limitation specified in paragraph (2) of subdivision (a)
14 may not be treated as a credit carryover under paragraph
15 (1) of this subdivision until the first taxable year in which
16 that amount may be claimed under the rules of this
17 section.

18 (e) (1) If, during any taxable year, any new
19 zero-emission vehicle is disposed of, or any lease of any
20 new zero-emission vehicle is terminated, prior to the
21 expiration of the 36-month period commencing with the
22 date the new zero-emission vehicle was first placed in
23 service within the meaning of paragraph (3) of
24 subdivision (b), the “net tax” of the taxpayer under this
25 part for that taxable year shall be increased by the amount
26 determined under paragraph (2) of this subdivision.

27 (2) The amount of the increase in the “net tax”
28 described in paragraph (1), if any, shall be determined in
29 the following manner:

30 (A) The tentative earned credit amount shall be
31 computed by multiplying the amount of any credit
32 allowed under subdivision (a) based on the qualified cost
33 described in paragraph (1) of subdivision (b), including
34 for this purpose any credit allowed but not claimed due
35 to the limitation specified in paragraph (2) of subdivision
36 (a), by a fraction, the numerator of which is equal to the
37 number of months (rounded to the nearest full month)
38 that have elapsed since the original use of the new
39 zero-emission vehicle commenced (as described in

1 paragraph (3) of subdivision (b)), and the denominator
2 of which is 36.

3 (B) In the case where the sum of the amounts
4 previously claimed under subdivision (a) for prior
5 taxable years, including for this purpose any amount of
6 credit carryover described in paragraph (1) of
7 subdivision (d), exceeds the tentative earned credit
8 amount computed under subparagraph (A), the
9 following rules shall be applied in the order in which
10 those rules are specified below:

11 (i) No further unclaimed credit, as described in
12 paragraph (2) of subdivision (d), may be claimed under
13 this section with respect to that new zero-emission
14 vehicle.

15 (ii) Any credit carryover, as described in paragraph
16 (1) of subdivision (d), shall be reduced, but not below
17 zero, by the amount of the difference described in this
18 subparagraph.

19 (iii) Any remaining difference, after application of
20 clause (ii), between the amounts previously claimed and
21 the tentative earned credit amount, shall be added to the
22 “net tax” under paragraph (1).

23 (C) In the case where the tentative earned credit
24 amount computed under subparagraph (A) exceeds the
25 sum of the amounts previously claimed under subdivision
26 (a), including for this purpose any amount of credit
27 carryover described in paragraph (1) of subdivision (d),
28 the following rules shall be applied in the order in which
29 those rules are specified below:

30 (i) Any further unclaimed credit, as described in
31 paragraph (2) of subdivision (d), may be claimed in the
32 taxable year in which any event described in
33 subparagraph (A) occurs, but only to the extent of the
34 amount by which the tentative earned credit amount
35 computed under subparagraph (A) exceeds the sum of
36 the amounts previously claimed under subdivision (a).

37 (ii) Any credit carryover, as described in paragraph
38 (1) of subdivision (d), may continue to be treated as a
39 credit carryover under that subdivision.

(iii) Any remaining difference, after application of clause (i), between the tentative earned credit amount and any further unclaimed credit, shall be reduced to zero.

(D) In the case where the number of months (rounded to the nearest full month) that have elapsed since the original use of the new zero-emission vehicle commenced (as described in paragraph (3) of subdivision (b)) is less than three months, the numerator for purposes of computing the tentative earned credit amount pursuant to subparagraph (A) shall be zero.

(3) For purposes of paragraph (2), the amount of any credit previously claimed under this section may not include any credit carryover amount described in paragraph (1) of subdivision (d).

(f) The Franchise Tax Board may prescribe those regulations as may be appropriate to carry out the purposes of this section, including regulations specifying those events that constitute a disposition of a new zero-emission vehicle or a termination of a lease of a new zero-emission vehicle under subdivision (e), and those events that are a mere change in form not constituting a disposition of a new zero-emission vehicle or a termination of a lease of a new zero-emission vehicle under subdivision (e).

(g) This section shall remain in effect until December 1, 2006, and as of that date is repealed.

SEC. 10. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) (1) For a qualified renter, there shall be allowed a credit against his or her “net tax” (as defined in Section 17039). The amount of the credit shall be as follows:

(A) For married couples filing joint returns, heads of household and surviving spouses (as defined in Section 17046) the credit shall be equal to one hundred twenty dollars (\$120) if adjusted gross income is ~~is fifty~~ sixty thousand dollars ~~(\$50,000)~~ (\$60,000) or less.

(B) For other individuals, the credit shall be equal to sixty dollars (\$60) if adjusted gross income is ~~twenty-five~~ *thirty* thousand dollars ~~(\$25,000)~~ (\$30,000) or less.

(2) Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) For a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a “qualified renter” means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) The term “qualified renter” does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes that are substantially equivalent to

1 property taxes paid on properties of comparable market
2 value.

3 (2) An individual whose principal place of residence
4 for more than 50 percent of the taxable year is with any
5 other person who claimed such individual as a dependent
6 for income tax purposes.

7 (3) An individual who has been granted or whose
8 spouse has been granted the homeowners' property tax
9 exemption during the taxable year. This paragraph does
10 not apply to an individual whose spouse has been granted
11 the homeowners' property tax exemption if each spouse
12 maintained a separate residence for the entire taxable
13 year.

14 (e) Any otherwise qualified renter who is a
15 nonresident for any portion of the taxable year shall claim
16 the credits set forth in subdivision (a) at the rate of
17 one-twelfth of those credits for each full month that
18 individual resided within this state during the taxable
19 year.

20 (f) Every person claiming the credit provided in this
21 section shall, as part of that claim, and under penalty of
22 perjury, furnish that information as the Franchise Tax
23 Board prescribes on a form supplied by the board.

24 (g) The credit provided in this section shall be claimed
25 on returns in the form as the Franchise Tax Board may
26 from time to time prescribe.

27 (h) For the purposes of this section, the term
28 "premises" means a house or a dwelling unit used to
29 provide living accommodations in a building or structure
30 and the land incidental thereto, but does not include land
31 only, unless the dwelling unit is a mobilehome. The credit
32 is not allowed for any taxable year for the rental of land
33 upon which a mobilehome is located if the mobilehome
34 has been granted a homeowners' exemption under
35 Section 218 in that year.

36 (i) This section shall become operative on January 1,
37 1998, and applies to any taxable year beginning on or after
38 January 1, 1998.

39 (j) For each taxable year beginning on or after January
40 1, ~~1999~~ 2001, the Franchise Tax Board shall recompute the

1 adjusted gross income amounts set forth in subdivision
2 (a). That computation shall be made as follows:

3 (1) The California Department of Industrial Relations
4 shall transmit annually to the Franchise Tax Board the
5 percentage change in the California Consumer Price
6 Index for all items from June of the prior calendar year to
7 June of the current year, no later than August 1 of the
8 current calendar year.

9 (2) The Franchise Tax Board shall compute an
10 inflation adjustment factor by adding 100 percent to that
11 portion of the percentage change figure which is
12 furnished pursuant to paragraph (1) and dividing the
13 result by 100.

14 (3) The Franchise Tax Board shall multiply the
15 amount in subparagraph (B) of paragraph (1) of
16 subdivision (d) for the preceding taxable year by the
17 inflation adjustment factor determined in paragraph (2),
18 and round off the resulting products to the nearest one
19 dollar (\$1).

20 (4) In computing the amounts pursuant to this
21 subdivision, the amounts provided in subparagraph (A)
22 of paragraph (1) of subdivision (a) shall be twice the
23 amount provided in subparagraph (B) of paragraph (1)
24 of subdivision (a).

25 *(k) The amendments made to this section by the act*
26 *adding this subdivision shall apply only to taxable years*
27 *beginning on or after January 1, 2000.*

28 *SEC. 11. Section 23639 is added to the Revenue and*
29 *Taxation Code, to read:*

30 *23639. (a) (1) For income years beginning on or*
31 *after January 1, 2001, and before January 1, 2006, there*
32 *shall be allowed a credit against the "tax," as defined in*
33 *Section 23036, as follows:*

34 *(A) Any taxpayer who leases or purchases a new*
35 *zero-emission vehicle shall be allowed a total credit*
36 *amount that, subject to the limit set forth in paragraph*
37 *(2), is equal to 50 percent of the qualified cost of the new*
38 *zero-emission vehicle.*

39 *(B) Any taxpayer that sells or leases a new*
40 *zero-emission vehicle to a state or local governmental*

1 agency, or to a tax-exempt nonprofit organization that is
2 not entitled to claim the credit allowed under
3 subparagraph (A), shall be allowed a total credit amount
4 that, subject to the limit set forth in paragraph (2), is
5 equal to 50 percent of the qualified cost of the new
6 zero-emission vehicle, if that taxpayer agrees to reduce
7 the sales price of the new zero-emission vehicle, or the
8 amounts due under the lease of the new zero-emission
9 vehicle, by an amount equal to the total credit amount
10 allowed by this subparagraph and provides written
11 documentation of this reduction to the purchaser or the
12 lessee, as the case may be.

13 (2) (A) A credit amount allowed under paragraph
14 (1) shall, except for any carryover amount allowed under
15 paragraph (1) of subdivision (d), be claimed over a
16 period of no more than three consecutive income years
17 beginning with the income year during which original
18 use of the new zero emission vehicle commences.

19 (B) The amount of credit that may be claimed under
20 paragraph (1) for any taxable year may not, except for
21 any carryover amount otherwise allowed pursuant to
22 paragraph (1) of subdivision (d), exceed the lesser of:

23 (i) Three thousand dollars (\$3,000) per new
24 zero-emission vehicle per taxable year.

25 (ii) Fifty percent of the qualified cost per new
26 zero-emission vehicle, as reduced by any credits claimed
27 in prior taxable years under this section with respect to
28 that new zero-emission vehicle.

29 (b) For purposes of this section:

30 (1) “Qualified cost” means an amount, not to exceed
31 eighteen thousand dollars (\$18,000), that is determined
32 by the applicable of the following:

33 (A) In the case of the purchase of a new zero-emission
34 vehicle, other than a purchase described in subparagraph
35 (C), the amount that is subject to sales or use tax under
36 Part 1 (commencing with Section 6001).

37 (B) In the case of a lease of a new zero-emission
38 vehicle, other than a lease described in subparagraph
39 (C), the amount the lessee is unconditionally obligated to
40 pay to the lessor under the terms of the lease during the

1 36-month period beginning with the date the lease of that
2 new zero-emission vehicle commences.

3 (C) In the case of a sale or lease of a new zero-emission
4 vehicle to a state or local governmental agency or to a
5 tax-exempt nonprofit organization, the following rules
6 apply:

7 (i) In the case of a sale, “qualified cost” means the sum
8 of the sales price of the new zero-emission vehicle and the
9 amount of the reduction required by subparagraph (B)
10 of paragraph (1) of subdivision (a).

11 (ii) In the case of a lease, “qualified cost” means the
12 sum of the amount the lessor is unconditionally entitled
13 to receive under the terms of the lease during the
14 36-month period beginning with the date the lease of that
15 new zero-emission vehicle commences, and the amount
16 of the reduction required by subparagraph (B) of
17 paragraph (1) of subdivision (a).

18 (2) “Zero-emission vehicle” means any light-duty
19 vehicle certified by the State Air Resources Board as
20 having zero tailpipe and evaporative emissions. Eligible
21 zero-emission vehicles shall be registered in the State of
22 California, meet all federal and state safety requirements,
23 have minimum warranties covering the full lease period,
24 and shall be freeway capable, as determined by the State
25 Air Resources Board in conjunction with the California
26 Energy Commission and the Department of Motor
27 Vehicles.

28 (3) “New zero-emission vehicle” means any
29 zero-emission vehicle, the original use of which
30 commences with the taxpayer on or after January 1, 2001,
31 and before January 1, 2003. For purposes of this
32 paragraph:

33 (A) A zero-emission vehicle shall be treated as
34 originally placed in service not earlier than the date on
35 which that zero-emission vehicle is used under the lease
36 if both of the following apply:

37 (i) The vehicle is originally placed in service by the
38 taxpayer.

39 (ii) The vehicle is sold and leased back by that
40 taxpayer, or is leased to that taxpayer, within three

1 months, but in no event later than December 31, 2002, of
2 the date the zero-emission vehicle was originally placed
3 in service.

4 (B) In the case of any previously leased vehicle that
5 has been substantially upgraded on or after January 1,
6 2001, with new technologies, including, but not limited to,
7 an upgrade to advanced batteries, or substantial upgrades
8 to power electronics, as determined by the State Air
9 Resources Board in conjunction with the California
10 Energy Commission, the original use of that
11 zero-emission vehicle shall be deemed to have
12 commenced with the first original use of that
13 zero-emission vehicle that occurs after the substantial
14 upgrade has been completed.

15 (C) In the case of a sale or lease described in
16 subdivision (c), the original use of the zero-emission
17 vehicle by the purchaser or lessee, rather than the
18 taxpayer, shall determine the date on which the seller or
19 lessor shall be first entitled to claim the credit allowed
20 under subdivision (c).

21 (c) The State Air Resources Board, in consultation
22 with the Department of Motor Vehicles and the
23 California Energy Commission, shall specify criteria and
24 other requirements for eligibility for the credit provided
25 by this section, and shall administer the determination of
26 vehicle eligibility for the Franchise Tax Board.

27 (d) (1) If the amount of credit exceeds the "net tax,"
28 the excess may be carried forward to reduce the "net tax"
29 in the following year, and seven succeeding years, if
30 necessary, until exhausted.

31 (2) Any amount allowed under subdivision (a) that
32 may not be claimed during any taxable year due to the
33 limitation specified in paragraph (2) of subdivision (a)
34 may not be treated as a credit carryover under paragraph
35 (1) of this subdivision until the first taxable year in which
36 that amount may be claimed under the rules of this
37 section.

38 (e) (1) If, during any taxable year, any new
39 zero-emission vehicle is disposed of, or any lease of any
40 new zero-emission vehicle is terminated, prior to the

1 expiration of the 36-month period commencing with the
2 date the new zero-emission vehicle was first placed in
3 service within the meaning of paragraph (3) of
4 subdivision (b), the “net tax” of the taxpayer under this
5 part for that taxable year shall be increased by the amount
6 determined under paragraph (2) of this subdivision.

7 (2) The amount of the increase in the “net tax”
8 described in paragraph (1), if any, shall be determined in
9 the following manner:

10 (A) The tentative earned credit amount shall be
11 computed by multiplying the amount of any credit
12 allowed under subdivision (a) based on the qualified cost
13 described in paragraph (1) of subdivision (b), including
14 for this purpose any credit allowed but not claimed due
15 to the limitation specified in paragraph (2) of subdivision
16 (a), by a fraction, the numerator of which is equal to the
17 number of months (rounded to the nearest full month)
18 that have elapsed since the original use of the new
19 zero-emission vehicle commenced (as described in
20 paragraph (3) of subdivision (b)), and the denominator
21 of which is 36.

22 (B) In the case where the sum of the amounts
23 previously claimed under subdivision (a) for prior
24 taxable years, including for this purpose any amount of
25 credit carryover described in paragraph (1) of
26 subdivision (d), exceeds the tentative earned credit
27 amount computed under subparagraph (A), the
28 following rules shall be applied in the order in which
29 those rules are specified below:

30 (i) No further unclaimed credit, as described in
31 paragraph (2) of subdivision (d), may be claimed under
32 this section with respect to that new zero-emission
33 vehicle.

34 (ii) Any credit carryover, as described in paragraph
35 (1) of subdivision (d), shall be reduced, but not below
36 zero, by the amount of the difference described in this
37 subparagraph.

38 (iii) Any remaining difference, after application of
39 clause (ii), between the amounts previously claimed and

1 the tentative earned credit amount, shall be added to the
2 “net tax” under paragraph (1).

3 (C) In the case where the tentative earned credit
4 amount computed under subparagraph (A) exceeds the
5 sum of the amounts previously claimed under subdivision
6 (a), including for this purpose any amount of credit
7 carryover described in paragraph (1) of subdivision (d),
8 the following rules shall be applied in the order in which
9 those rules are specified below:

10 (i) Any further unclaimed credit, as described in
11 paragraph (2) of subdivision (d), may be claimed in the
12 taxable year in which any event described in
13 subparagraph (A) occurs, but only to the extent of the
14 amount by which the tentative earned credit amount
15 computed under subparagraph (A) exceeds the sum of
16 the amounts previously claimed under subdivision (a).

17 (ii) Any credit carryover, as described in paragraph
18 (1) of subdivision (d), may continue to be treated as a
19 credit carryover under that subdivision.

20 (iii) Any remaining difference, after application of
21 clause (i), between the tentative earned credit amount
22 and any further unclaimed credit, shall be reduced to
23 zero.

24 (D) In the case where the number of months
25 (rounded to the nearest full month) that have elapsed
26 since the original use of the new zero-emission vehicle
27 commenced (as described in paragraph (3) of
28 subdivision (b)) is less than three months, the numerator
29 for purposes of computing the tentative earned credit
30 amount pursuant to subparagraph (A) shall be zero.

31 (3) For purposes of paragraph (2), the amount of any
32 credit previously claimed under this section may not
33 include any credit carryover amount described in
34 paragraph (1) of subdivision (d).

35 (f) The Franchise Tax Board may prescribe those
36 regulations as may be appropriate to carry out the
37 purposes of this section, including regulations specifying
38 those events that constitute a disposition of a new
39 zero-emission vehicle or a termination of a lease of a new
40 zero-emission vehicle under subdivision (e), and those

1 events that are a mere change in form not constituting a
2 disposition of a new zero-emission vehicle or a
3 termination of a lease of a new zero-emission vehicle
4 under subdivision (e).

5 (g) This section shall remain in effect until December
6 1, 2006, and as of that date is repealed.

7 SEC. 12. Notwithstanding Section 2230 of the
8 Revenue and Taxation Code, no appropriation is made by
9 this act and the state shall not reimburse any local agency
10 for any sales and use tax revenues lost by it under this act.

11 SEC. 13. This act provides for a tax levy within the
12 meaning of Article IV of the Constitution and shall go into
13 immediate effect. However, the amendment by this act
14 of Sections 6361, 6363.3, 6377, 6380, 6471, 6472, and 6591.5
15 of the Revenue and Taxation Code, and the addition by
16 this act of Section 6018.3 to the Revenue and Taxation
17 Code, shall become operative on the first day of the first
18 calendar quarter commencing more than 90 days after
19 the effective date of this act.

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22 **All matter omitted in this version of the**
23 **bill appears in the bill as amended in the**
24 **Assembly, 7, 2000 (JR 11)**
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